



2006

UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Fourth Annual DUI Report to the Utah Legislature

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Table of Contents

Acknowledgements

Table of Contents

Executive Summary

DUI in Utah FY 2006

Recommended Action

1 Introduction

Purpose of the Report

2006 DUI Legislation

2006 DUI Subcommittee

2 Law Enforcement

DUI Arrests

DUI Arrests by Type

DUI Overtime Enforcement Events

DUI Arrests by Agency Type

DUI Arrests by Gender

DUI Arrests by Age

DUI Arrests by Month

DUI Arrests by County

DUI Arrests by Blood Alcohol Concentration (BAC)

DUI-Related Crashes

DUI-Related Fatalities

Use of State Beer Tax Funds for DUI Law Enforcement

3 Adjudications and Sanctions

Justice Court Electronic Reporting Capability

Justice Court DUI Charges and Outcomes

District Court DUI Case Outcomes

Repeat Offenders

Court Sanctions

4 Driver License Control

Alcohol Hearing Statistics

5 Screening, Assessment, Education and Treatment

Screening and Assessment

Education

Treatment

6 A Strategy for Reducing DUI

7 Recommended Action

Utah DUI Sentencing Matrix

1

1

2

5

6

7

9

11

11

11

12

12

12

13

13

14

15

15

16

17

19

19

20

20

21

21

23

23

25

25

25

26

27

29

Executive Summary

Executive Summary DUI in Utah FY 2006

DUI-Related Fatalities Decreased Significantly in Utah!

- In calendar year 2005, Utah achieved the largest reduction in DUI-related deaths in the nation, from 72 in 2004 to 37 in 2005, a 49 percent decrease!
- Utah also maintained the lowest rate of alcohol-related fatalities in the nation, at 13 percent. The average nationwide was 39 percent.

Law Enforcement: Arrests

- There were 14,138 DUI arrests in FY 2006, 463 more than the previous year. The majority of the arrests, 76 percent, were for violation of the .08 per se statute.
- Nearly 60 percent of all arrests for DUI were made by municipal law enforcement agencies.
- Seventy-nine percent of DUI drivers were male.
- Eleven percent of arrestees were under the legal drinking age of 21. DUI drivers between the ages of 21 and 36 accounted for over half (55%) of all arrests.
- The majority of DUI arrests occurred along the Wasatch Front with Weber, Davis, Salt Lake and Utah Counties accounting for 65 percent of the total arrests.
- The average BAC was .14, with the highest at .42, over *five times* the legal limit!

Courts: Adjudications and Sanctions

- Justice Courts handled the bulk of the DUI cases, with 9,631 (80%); District Courts handled 2,386 DUI cases (20%).
- Seventy-six percent of District Court DUI cases, and 61 percent of Justice Court DUI cases, resulted in a guilty plea or verdict.
- District Court judges ordered 57% of offenders into substance abuse treatment, the same as last year; and ordered ignition interlock devices for 432 offenders, 73 more than last year.
- The average jail sentence for DUI offenders was 148 days; the average time served was 13 days.

Driver License Control

- The Driver License Division conducted 4,044 hearings to determine if there was sufficient information to warrant the suspension or revocation of an individual's driver license.
- In 1,331 cases, either the arresting officer or the DUI offender used the telephonic option to call in for the driver license hearing.

Recommended Action

- **Enact legislation to:**
 - **Clarify the application of the ten year look back period for felony driving under the influence violations;**
 - **Require the courts to order an ignition interlock system as a condition of probation for alcohol restricted driver violations or describe why the order would not be appropriate;**
 - **Expand the definition of alcohol restricted driver to include any person who is convicted of a violation of the interlock restricted driver statute;**
 - **Require a person whose driver license has been denied, cancelled, suspended or revoked to have an administrative hearing before seeking judicial review of the Driver License Division's order;**

- Increase the fee for a license reinstatement application for an alcohol or drug-related offense;
- Increase the administrative fee for license reinstatement after an alcohol or drug-related offense; and
- Require the Driver License Division to immediately deny, suspend, disqualify, or revoke a person's driver license upon receiving record of a person's conviction for operating a vehicle without an ignition interlock system if the person is an interlock restricted driver.

■ **Appropriate \$1.6 million for Underage Drinking Prevention**

- Appropriate \$1.6 million for Fiscal Year 2007-2008 to the Department of Alcoholic Beverage Control to enable the continuation of Utah's *ParentsEmpowered.org* Underage Drinking Prevention Media and Education Campaign.



Introduction

1

Introduction

As Colleen Nordberg rode her bicycle to work on the warm Sunday afternoon of August 21, 2005, she didn't realize her life was about to change forever. Near the intersection of 1700 South and 2100 East in Salt Lake City, she was hit by a vehicle that was traveling about 30 mph and failed to stop at a red light. Colleen was critically injured, suffering serious head trauma, facial fractures, a broken leg, and significant blood loss. The driver, a 22-year-old man, tested positive for recent marijuana use and signs of prior marijuana use. Due to the difficulty of proving impairment when under the influence of a controlled substance, however, Utah law provided only for charging the driver with marijuana possession and failing to stop at a red light. The law did provide for a one degree penalty enhancement on the marijuana possession charge, from a class B misdemeanor to a class A, because the driver's actions were negligent and caused serious bodily injury. Colleen Nordberg still has visible scars from the incident and short-term memory loss. As for the driver, the charges won't even show up on his driving record.

Monday, August 29, 2005 was the first day of school at Hunter High School. After school let out that day, 15-year old sophomore Gregorio Rodriguez, who worked as a volunteer for the food bank, loved fishing and four-wheeling, and was described by friends and family as "always smiling", was riding his bicycle on the sidewalk and talking with friends when he was hit by a drunk driver. He died at the scene. The driver, a 21-year-old man, had been convicted of a DUI in 2003 and was driving on a conditional license. His blood alcohol level was .28, over three times the legal limit. The driver was charged with second degree felony automobile homicide and several misdemeanor offenses, including failure to stop at the scene of an injury accident, reckless driving, conditional license violation, driving on a denied license, and having an open container. He was held in jail on \$50,000 bail, but the bail was later reduced to \$25,000 and he was released to home confinement. On January 20, 2006, the driver plead guilty to second degree felony automobile homicide in Third District Court, as part of a plea bargain in which the other charges against him were dismissed. On February 17, 2006, he was sentenced to one to 15 years in prison and the judge recommended substance abuse treatment. In May, the Board of Pardons and Parole scheduled the driver's first parole hearing for November of 2010.

In the early morning of September 14, 2005, 19-year-olds Christopher Cannon and Michelle Payne were headed to Las Vegas to get married. At about 1:00 a.m., as they drove on I-15 near Spanish Fork, a car crossed the median, sideswiped an SUV and then crashed head-on into Cannon's car. Christopher was killed instantly. The driver of the other car, a 33-year-old woman, had been drinking at two different bars in Provo before she got into her car and entered the freeway going the wrong way. Her blood alcohol level was .269, over three times the legal limit, and it was later found that although she had a valid driver license, she had multiple previous DUI charges. The driver was convicted of automobile homicide and is currently serving a sentence of one to 15 years in prison. The two bars were cited for serving alcohol to an intoxicated person and had their licenses temporarily suspended. Christopher Cannon's mother lost her only son and will never know the joy of grandchildren.

Needless to say, driving under the influence remains one of Utah's most serious violent crimes. During fiscal year 2006, there were 14,138 arrests for DUI throughout the state. In calendar year 2005, 37 Utahns lost their lives because someone chose to drive under the influence of alcohol or other drugs. These figures, and the incidents described above, illustrate that while notable progress is being made to effectively address DUI in Utah, there are still areas that warrant attention. This year's report provides an update of DUI-related data for the state, as well as recommended action designed to prevent and reduce the incidence and related tragedy of DUI in the future.

Purpose of the Report

The *Fourth Annual Driving Under the Influence Report to the Utah Legislature* was prepared in accordance with §41-6a-511 of the Utah Code. The statute requires the Utah Commission on Criminal and Juvenile Justice to prepare an annual report of DUI related data, including the following:

- Data collected by the state courts to allow sentencing and enhancement decisions to be made in accordance with violations involving driving under the influence of alcohol and/or other drugs;
- Data collected by the justice courts (same DUI related data elements collected by the state courts);
- Any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related process of:
 - Law enforcement;
 - Adjudication;
 - Sanctions;
 - Drivers' license control; and
 - Alcohol education, assessment, and treatment.

2006 DUI Legislation

The following DUI-related bills were passed by the Utah Legislature during the 2006 General Session:

S.B. 18 Driving Under the Influence Amendments –
Senator Carlene M. Walker

Prohibits an interlock restricted driver from operating or being in actual physical control of a vehicle without an ignition interlock system and provides penalties for operation without an ignition interlock system.

Repeals the requirement that a person's driver license be coded if the person is required to use an ignition interlock system.

Requires a peace officer to warn a person that has been placed under arrest for refusing to submit to a chemical test for alcohol or drugs that a refusal may result in a three-year prohibition of driving without an ignition interlock device.

Extends the repeal of restrictions on pleas in abeyance to driving under the influence violations through June 30, 2008.

S.B. 51 Driving With a Controlled Substance in the Body–
Amendments – *Senator Carlene M. Walker*

Changes the penalty for causing a serious injury while operating a vehicle and also having marijuana or derivative equivalent substances in the body from the current class A misdemeanor to a third degree felony.

S.B. 58 Alcoholic Beverage Amendments – Eliminating
Alcohol Sales to Youth – *Senator Peter Knudson*

Requires those who sell or directly supervise the sale of beer in a grocery or convenience store to complete a state approved alcohol training and education seminar and wear a unique identification badge, and imposes penalties on any store that fails to comply with these requirements or whose employee is found in violation of any law involving the sale of an alcoholic beverage to a minor.

Imposes administrative penalties on salespersons and/or their direct supervisors who violate the law involving the sale of an alcoholic beverage to a minor.

Directs the Utah Division of Substance Abuse and Mental Health to establish the required curriculum components for the alcohol training and education seminar, certify private providers who will provide the seminar, and maintain a database of all employees who have completed the seminar.

Appropriates \$543,750 in ongoing funds to the Department of Public Safety's Highway Safety Office for reimbursement of local law enforcement agencies for the costs of conducting compliance checks of grocery and convenience stores regarding the sale of alcoholic beverages to minors.

Appropriates \$1,631,250 for fiscal year 2006-07 only to the Department of Alcoholic Beverage Control for media and education campaigns designed to reduce underage drinking.

Directs the Utah Substance Abuse and Anti-Violence (USA AV) Coordinating Council to: provide oversight for the media and education campaigns, establish guidelines for how funds appropriated for the campaigns should be used (e.g., require that the campaigns are carefully researched and developed and are appropriate for target groups), and establish an underage drinking workgroup.

2006 DUI Subcommittee

Utah Substance Abuse and Anti-Violence (USAAV)
Coordinating Council

The USAAV DUI Subcommittee and the Governor's Council on DUI that preceded it have made significant contributions to improving Utah's response to DUI. The DUI Subcommittee membership consists of representatives from agencies and organizations dealing with the DUI issue in Utah. Together with the support and action of Utah's Legislature and other key leaders and policymakers, Utah is continuously strengthening its ability to effectively address the DUI problem. The members of the DUI Subcommittee are listed below.



| Anna Kay Waddoups Citizen Member <i>Chair, USAAV DUI Subcommittee</i> | |
|--|---|
| David Beach | Director, Highway Safety Office <i>Department of Public Safety</i> |
| Bart Blackstock | Citizen Member and Former Deputy Director Driver License Division, <i>Department of Public Safety</i> |
| Paul Boyden | Executive Director <i>Statewide Association of Public Attorneys</i> |
| Neil Cohen | Compliance Officer <i>Department of Alcoholic Beverage Control</i> |
| Victoria Delheimer | Program Administrator, Substance Abuse Treatment <i>Division of Substance Abuse and Mental Health</i> |
| Patty Fox | Post-Trial Services Program Manager Salt Lake County Criminal Justice Services |
| Kim Gibb | Bureau Chief, Driver License Division <i>Department of Public Safety</i> |
| Chief Wayne Hansen | Farmington Police Department <i>Utah Chiefs of Police Association</i> |
| Gail Johnson | Education Specialist <i>Utah State Office of Education</i> |
| Teri Pectol | Program Manager, Highway Safety Office <i>Department of Public Safety</i> |
| Richard Schwermer | Assistant State Court Administrator <i>Administrative Office of the Courts</i> |
| Sheriff Kirk Smith | Washington County Sheriff's Office <i>Utah Sheriff's Association</i> |
| Carlene M. Walker | Senator <i>Utah State Senate</i> |
| Mary Lou Emerson | Monica Taylor <i>Director, USAAV Council Administrative Assistant, USAAV/CCJJ</i> |

Law
Enforcement

2

Law Enforcement

The Utah Department of Public Safety, through its Driver License Division and Highway Safety Office, collects information on all DUI arrests. In FY 2006, Utah law enforcement officers made 14,138 DUI arrests, 463 more than in the previous year.

DUI Arrests

DUI Arrests by Type

As illustrated in the following table, the distribution of DUI arrests by type of violation in FY 2006 was very similar to previous years. The majority of the arrests, 76 percent, were for violations of the per se law, for driving at or above the legal blood alcohol level of .08. Almost 13 percent of arrests were for refusal to submit to a chemical test. Under Utah law, any person who operates a motor vehicle is considered to have given consent to tests of breath, blood, urine or oral fluids for the purpose of determining whether they are driving in violation of the DUI laws. Refusal may result in revocation of the driver license and prohibition of driving without an ignition interlock device. It is also illegal to drive with any measurable controlled substance or metabolite in one's body, which accounted for five percent of arrests. Violations of the Not a Drop statute, by persons under the age of 21 who drove with any measurable alcohol concentration in their body, accounted for almost six percent of the arrests. The fewest arrests were of commercial drivers exceeding the .04 limit, which represented only 0.3 percent of the total.

| DUI Arrests by Type | FY 2004 | | FY 2005 | | FY 2006 | |
|--------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Not a Drop (Under 21) | 818 | 5.6% | 767 | 5.6% | 837 | 5.9% |
| Refusal of BAC Test | 1,865 | 12.9% | 1,807 | 13.2% | 1,800 | 12.7% |
| Drug or Metabolite | 1,050 | 7.3% | 1,038 | 7.6% | 718 | 5.1% |
| Commercial Driver (.04) | 30 | 0.2% | 44 | 0.3% | 36 | 0.3% |
| Regular Alcohol (per se) | 10,698 | 74.0% | 10,019 | 73.3% | 10,747 | 76.0% |
| TOTAL | 14,461 | 100.0% | 13,675 | 100.0% | 14,138 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Overtime Enforcement Events

Many of the arrests made in FY 2006 occurred as a result of specialized DUI overtime enforcement events that specifically targeted and removed drivers under the influence of alcohol and/or other drugs from Utah's roads. A portion of the DUI impound fees collected, \$400,600 in FY 2006, were specifically designated to fund the overtime shifts.

The following table shows that all measures associated with DUI overtime enforcement events decreased from FY 2005 to FY 2006, with the exception of the number of vehicles stopped, which increased by almost 21 percent.

| Statewide DUI Overtime Enforcement Events | FY 2005 | FY 2006 | Percent Change FY 05 – FY 06 |
|--|----------------|----------------|---|
| Shifts Worked | 2,364 | 1,987 | -15.9% |
| Vehicles Stopped | 18,612 | 22,476 | 20.8% |
| DUI Arrests | 1,493 | 1,329 | -11.0% |
| Vehicles Impounded | 1,269 | 1,215 | -4.3% |
| Alcohol-Related Arrests | 879 | 611 | -30.5% |
| Drug-Related Arrests | 685 | 519 | -24.2% |
| Warrants Served | 375 | 312 | -16.8% |
| Other Warnings/Citations | 18,477 | 16,583 | -10.2% |

Source: Utah Department of Public Safety, Highway Safety Office

The tables on the following pages provide information about the arresting agency, the gender and age of the driver, the month and county of arrest, and the driver's blood alcohol content (BAC) at the time of arrest. Overall, the FY 2006 data were very similar to those collected in FY 2004 and FY 2005.

DUI Arrests by Agency Type

More than half of all arrests in FY 2006 were made by municipal law enforcement agencies (60%), with the Utah Highway Patrol responsible for 24 percent of arrests, and Sheriffs' Offices responsible for just over 16 percent of DUI arrests.

| DUI Arrests by Agency Type | FY 2004 | | FY 2005 | | FY 2006 | |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Sheriffs' Offices | 2,433 | 16.8% | 2,529 | 18.5% | 2,329 | 16.5% |
| City Police/Other | 7,601 | 52.6% | 7,464 | 54.6% | 8,441 | 59.7% |
| Highway Patrol | 4,427 | 30.6% | 3,682 | 26.9% | 3,368 | 23.8% |
| TOTAL | 14,461 | 100.0% | 13,675 | 100.0% | 14,138 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Gender

The table on the following page shows the proportions of male and female arrestees have remained fairly consistent over the past three years. In FY 2006, 79 percent were male and 21 percent were female.

| DUI Arrests by Gender | FY 2004 | | FY 2005 | | FY 2006 | |
|-----------------------|---------------|---------------|---------------|---------------|---------------|----------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Male | 11,587 | 80.1% | 11,017 | 80.6% | 11,160 | 78.9% |
| Female | 2,832 | 19.6% | 2,625 | 19.2% | 2,955 | 20.9% |
| Unspecified | 42 | 0.3% | 33 | 0.2% | 23 | 0.2% |
| TOTAL | 14,461 | 100.0% | 13,675 | 100.0% | 14,138 | 100.00% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Age

The youngest DUI driver in FY 2006 was 15 years old. Eleven percent of arrestees were under the legal drinking age of 21. Drivers between the ages of 21 and 36 accounted for over half (55%) of all arrests.

| DUI Arrests by Age | FY 2004 | | FY 2005 | | FY 2006 | |
|--------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Unknown | 4 | 0.0% | 2 | 0.0% | 0 | 0.0% |
| 15-20 | 1,651 | 11.4% | 2,163 | 15.8% | 1,606 | 11.4% |
| 21-24 | 2,780 | 19.2% | 3,716 | 27.2% | 2,633 | 18.6% |
| 25-36 | 5,182 | 35.8% | 4,105 | 30.0% | 5,110 | 36.1% |
| 37-48 | 3,364 | 23.3% | 2,718 | 19.9% | 3,143 | 22.2% |
| 49+ | 1,480 | 10.3% | 971 | 7.1% | 1,646 | 11.7% |
| TOTAL | 14,461 | 100.0% | 13,675 | 100.0% | 14,138 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Month

As in previous years, DUI arrests remained fairly consistent throughout FY 2006, with an average arrest rate of 1,178 per month. The highest number of arrests occurred in July (1,291), with the lowest number of arrests in February (1,016).

| DUI Arrests by Month | FY 2004 | | FY 2005 | | FY 2006 | |
|----------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| July | 1,171 | 8.1% | 1,196 | 8.7% | 1,291 | 9.1% |
| August | 1,318 | 9.1% | 1,125 | 8.2% | 1,202 | 8.5% |
| September | 1,174 | 8.1% | 1,099 | 8.0% | 1,174 | 8.3% |
| October | 1,179 | 8.1% | 1,102 | 8.1% | 1,233 | 8.7% |
| November | 1,184 | 8.2% | 1,109 | 8.1% | 1,123 | 7.9% |
| December | 1,136 | 7.9% | 1,173 | 8.6% | 1,211 | 8.6% |
| January | 1,211 | 8.4% | 1,221 | 8.9% | 1,184 | 8.4% |
| February | 1,200 | 8.3% | 1,106 | 8.1% | 1,016 | 7.3% |
| March | 1,295 | 9.0% | 1,188 | 8.7% | 1,264 | 8.9% |
| April | 1,213 | 8.4% | 1,049 | 7.7% | 1,159 | 8.2% |
| May | 1,309 | 9.0% | 1,174 | 8.6% | 1,161 | 8.2% |
| June | 1,071 | 7.4% | 1,133 | 8.3% | 1,120 | 7.9% |
| TOTAL | 14,461 | 100.0% | 13,675 | 100.0% | 14,138 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by County

Consistent with past years, the majority of DUI arrests during FY 06 occurred along the Wasatch Front with Weber, Davis, Salt Lake and Utah Counties accounting for 65 percent (9,189) of the total. Salt Lake County had the highest number of arrests with 4,921 (35%), while Wayne County had the fewest arrests with three (0.0%). The table below also compares the proportion of DUI arrests to the proportion of both the population and vehicle miles traveled in each county. Overall, the three measures are fairly consistent within each county.

| County | DUI Arrests FY 2006 | | Population Estimate July 1, 2005 | | Vehicle Miles Traveled Calendar Year 2005 | |
|--------------|------------------------|---------------|--|---------------|--|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| Beaver | 126 | 0.9% | 6,341 | 0.3% | 252,089,706 | 1.0% |
| Box Elder | 208 | 1.5% | 45,304 | 1.8% | 885,182,279 | 3.5% |
| Cache | 501 | 3.5% | 103,564 | 4.1% | 911,409,421 | 3.6% |
| Carbon | 158 | 1.1% | 19,338 | 0.8% | 289,010,272 | 1.2% |
| Daggett | 26 | 0.2% | 963 | 0.0% | 34,133,343 | 0.1% |
| Davis | 1,444 | 10.2% | 278,278 | 10.9% | 2,349,088,208 | 9.4% |
| Duchesne | 130 | 0.9% | 15,237 | 0.6% | 207,241,389 | 0.8% |
| Emery | 90 | 0.6% | 10,491 | 0.4% | 367,248,648 | 1.5% |
| Garfield | 33 | 0.2% | 4,703 | 0.2% | 119,071,865 | 0.5% |
| Grand | 158 | 1.1% | 8,826 | 0.3% | 265,529,445 | 1.1% |
| Iron | 446 | 3.1% | 41,397 | 1.6% | 636,694,304 | 2.5% |
| Juab | 205 | 1.4% | 8,974 | 0.3% | 396,673,188 | 1.6% |
| Kane | 121 | 0.9% | 6,211 | 0.2% | 132,235,110 | 0.5% |
| Millard | 152 | 1.1% | 13,171 | 0.5% | 447,570,776 | 1.8% |
| Morgan | 39 | 0.3% | 8,516 | 0.3% | 131,490,365 | 0.5% |
| Piute | 9 | 0.1% | 1,368 | 0.0% | 25,693,146 | 0.1% |
| Rich | 14 | 0.1% | 2,062 | 0.1% | 52,827,203 | 0.2% |
| Salt Lake | 4,921 | 34.8% | 978,285 | 38.4% | 8,140,561,971 | 32.4% |
| San Juan | 124 | 0.9% | 14,571 | 0.6% | 277,577,582 | 1.1% |
| Sanpete | 98 | 0.7% | 25,454 | 1.0% | 247,677,486 | 1.0% |
| Sevier | 138 | 1.0% | 19,649 | 0.8% | 420,802,334 | 1.7% |
| Summit | 412 | 2.9% | 36,283 | 1.4% | 702,576,638 | 2.8% |
| Tooele | 461 | 3.3% | 52,133 | 2.1% | 881,187,905 | 3.5% |
| Uintah | 376 | 2.7% | 26,883 | 1.1% | 330,713,786 | 1.3% |
| Utah | 1,652 | 11.7% | 456,073 | 17.9% | 3,628,461,802 | 14.4% |
| Wasatch | 231 | 1.6% | 19,999 | 0.8% | 277,663,781 | 1.1% |
| Washington | 690 | 4.9% | 127,127 | 5.0% | 1,137,926,879 | 4.5% |
| Wayne | 3 | 0.0% | 2,504 | 0.1% | 38,607,656 | 0.2% |
| Weber | 1,172 | 8.3% | 213,684 | 8.4% | 1,542,592,467 | 6.1% |
| TOTAL | 14,138 | 100.0% | 2,547,389 | 100.0% | 25,129,538,955 | 100.0% |

Source for DUI Arrest Data: Utah Department of Public Safety, Driver License Division

Source for Population Data: Governor's Office of Planning and Budget, Demographic and Economic Analysis Section

Source for Vehicle Miles Traveled: Utah Department of Transportation

DUI Arrests by Blood Alcohol Content (BAC)

The average BAC remained at .14 during FY 2006, with the highest BAC recorded at .42, over five times the legal limit!

| DUI Arrests by Blood Alcohol Content | FY 2004 | | FY 2005 | | FY 2006 | |
|--------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| | Number | Percent | Number | Percent | Number | Percent |
| BAC Results Not Yet Submitted | 3,909 | 27.0% | 3,389 | 24.8% | 3,375 | 23.9% |
| .01 - .07 | 813 | 5.6% | 810 | 6.0% | 897 | 6.3% |
| .08 - .10 | 1,425 | 9.8% | 1,342 | 9.8% | 1,497 | 10.6% |
| .11 - .15 | 2,589 | 17.9% | 2,404 | 17.6% | 2,676 | 18.9% |
| .16 - .20 | 1,788 | 12.4% | 1,820 | 13.3% | 1,950 | 13.8% |
| .21 - .25 | 683 | 4.7% | 769 | 5.6% | 819 | 5.8% |
| .26+ | 286 | 2.0% | 309 | 2.3% | 362 | 2.6% |
| Refused BAC Test | 1,865 | 12.9% | 1,824 | 13.3% | 1,775 | 12.6% |
| No Test/Unknown | 831 | 5.7% | 650 | 4.7% | 540 | 3.8% |
| Drug Only | 272 | 2.0% | 358 | 2.6% | 247 | 1.7% |
| TOTAL | 14,461 | 100.0% | 13,675 | 100.0% | 14,138 | 100.0% |

Source: Utah Department of Public Safety, Driver License Division

DUI-Related Crashes

According to the Utah Department of Public Safety Highway Safety Office, a DUI-related crash occurs in Utah every 4½ hours. The following table shows the total number of DUI-related vehicle crashes for each calendar year from 1997 to 2005, including the number of injuries and the number of fatalities that occurred as a result of the crashes.

| Calendar Year | Utah DUI-Related Crashes, Injuries and Fatalities 1997-2005 | | | | |
|---------------|---|---------------|---------|------------|---------------|
| | Number of DUI-Related Crashes | Injuries | | Fatalities | |
| | | Number | Percent | Number | Percent |
| 1997 | 1,862 | 1,007 | 54.1% | 70 | 3.8% |
| 1998 | 1,909 | 1,062 | 55.6% | 48 | 2.5% |
| 1999 | 2,045 | 1,851 | 90.5% | 72 | 3.5% |
| 2000 | 2,163 | 1,846 | 85.3% | 90 | 4.2% |
| 2001 | 2,144 | 1,761 | 82.1% | 61 | 2.8% |
| 2002 | 2,102 | 1,117 | 53.1% | 61 | 2.9% |
| 2003 | 1,947 | 1,101 | 56.5% | 46 | 2.4% |
| 2004 | 1,961 | 1,078 | 55.0% | 72 | 3.7% |
| 2005 | Not Available | Not Available | | 37 | Not Available |

Sources: 1999-2002 – Intermountain Injury Control Research Center with CRASH data from the University of Utah CODES Project; 2003-2004 – Utah Department of Public Safety, Highway Safety Office.

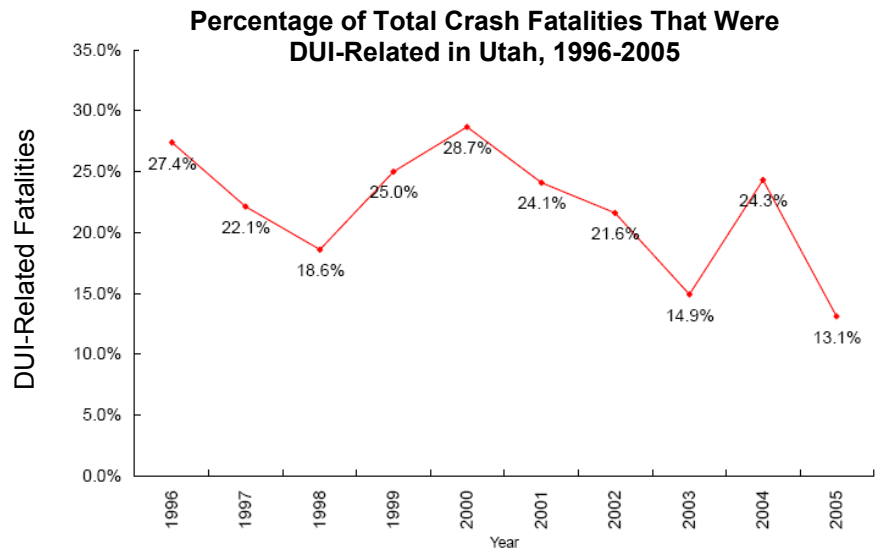
DUI-Related Fatalities

In calendar year 2005, Utah achieved the largest reduction in DUI-related deaths in the nation, from 72 in 2004 to 37 in 2005, a 49 percent decrease! In addition, Utah maintained the lowest rate of DUI-related traffic fatalities in the nation, at 13 percent. The average nationwide was 39 percent.

| Utah DUI-Related Traffic Fatalities | Calendar Year 2003 | Calendar Year 2004 | Calendar Year 2005 |
|--|--------------------|--------------------|--------------------|
| Total Traffic Fatalities | 309 | 296 | 282 |
| DUI-Related Fatalities | 47 | 72 | 37 |
| Percent DUI-Related | 15% | 24% | 13% |
| Blood Alcohol Content = .08+ | 39 | 70 | 33 |
| Percent BAC = .08+ | 13% | 24% | 12% |
| Source: National Highway Traffic Safety Administration | | | |

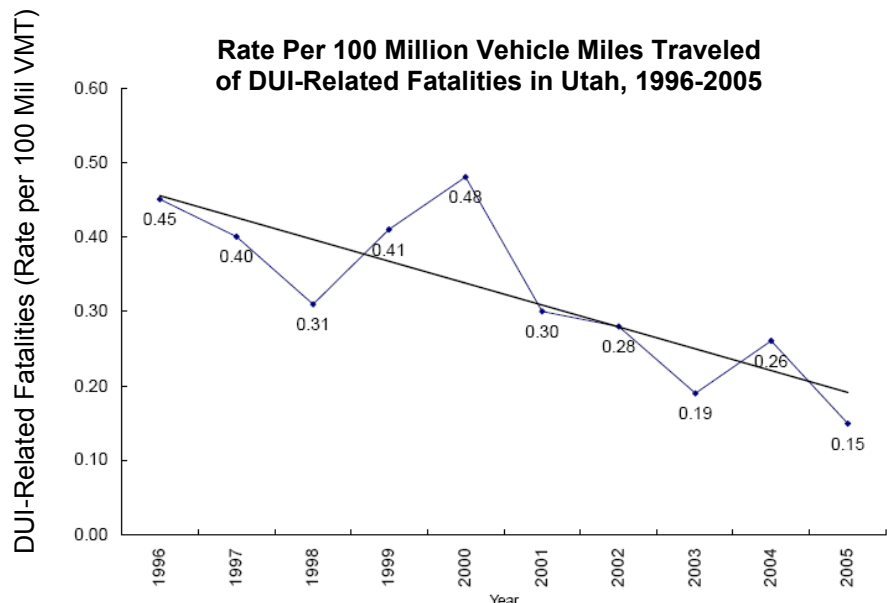
The top figure provides a graphic presentation of the percentage of DUI-related traffic fatalities in Utah, from 1996 to 2005.

Source: Utah Department of Public Safety, Highway Safety Office



The bottom figure shows the rate of DUI-related fatalities in Utah from 1996 to 2005, per 100 million vehicle miles traveled. Despite yearly fluctuations, the rate has maintained a downward trend. Utah's DUI fatality rate in 2005 was only one-third of what it was in 1996!

Source: Utah Department of Public Safety, Highway Safety Office



Use of State Beer Tax Funds for DUI Law Enforcement

The state's beer tax funds are used to support DUI enforcement, as well as other alcohol-related enforcement, education/prevention and treatment activities. In FY 2006, the Legislature appropriated \$3,741,900 to be distributed to municipalities and counties statewide on a formula basis.¹ Funds can be spent in one or more of six general categories: (1) DUI law enforcement, (2) general alcohol-related law enforcement, (3) prosecution/court costs for alcohol-related cases, (4) treatment of alcohol problems, (5) alcohol-related education/prevention, and (6) confinement of alcohol law offenders.

Communities that receive more than \$1,000 in beer tax revenues are required to submit an Annual Report to the Utah Substance Abuse and Anti-Violence Coordinating Council by October 1st of each year outlining how funds were utilized, whether the programs or projects funded were effective, and certifying that they were used in accordance with the law. In FY 2006, the USAAV Council took specific action to address the failure of many municipalities and counties to submit their annual reports by the October 1st deadline. In the future, municipalities and counties that do not submit their reports by the October 1st deadline will receive a letter from the USAAV Council specifying a new deadline for submitting the report. Municipalities and counties that do not submit their reports by the new deadline specified in the letter will forfeit their alcohol funds for the current fiscal year (which will be allocated to other entities, in accordance with the statute), and will be required to formally apply for their next fiscal year's funds utilizing an application form provided by the USAAV Council.

The following table shows how FY 06 funds were expended, as outlined in the Alcohol Funds Annual Reports received to date.

| FY 2006 Alcohol Funds Reports How Funds Were Used - As of 10/15/06 | Number of Communities (N=108) | Percent² |
|---|--|----------------------------|
| DUI Law Enforcement | 78 | 72.2% |
| General Alcohol-Related Law Enforcement | 67 | 62.0% |
| Prosecution/Court Costs for Alcohol-Related Cases | 33 | 30.6% |
| Treatment of Alcohol Problems | 3 | 2.8% |
| Alcohol-Related Education/Prevention | 48 | 44.4% |
| Confinement of Alcohol Law Offenders | 11 | 10.2% |
| Source: Utah Substance Abuse and Anti-Violence Coordinating Council, FY 2006 Alcohol Funds Annual Reports | | |

¹ The State Tax Commission distributes funds to municipalities and counties in December of each year based upon the following formula: percentage of state population (25%); percentage of statewide convictions for all alcohol-related offenses (30%); percentage of all state stores, package agencies, liquor licensees, and beer licensees (20%); and for confinement and treatment purposes (for alcohol-related offenses) based upon the percentage of the state population (25% to counties only).

² Communities may use alcohol funds for more than one of the six categories outlined in the statute.

Adjudications & Sanctions

3

Adjudications and Sanctions

DUI offenses are classified either as misdemeanors or felonies, depending on the type of offense and whether it is a repeat offense. Misdemeanor DUI cases are handled in Justice Courts, which are managed and funded by local governments. Felony DUI cases and cases not referred to the Justice Courts are handled in state District Courts. The number of DUI cases disposed in the state's District Courts increased in FY 2006, nearly six percent over the previous year. The number of cases in the Justice Courts, which handled the bulk of the DUI cases (80%), decreased almost three percent.

| DUI Cases in Utah's Courts | FY 2004 | FY 2005 | FY 2006 | % Change FY 05 – FY 06 |
|-----------------------------------|----------------|----------------|----------------|-----------------------------------|
| District Court Cases Disposed | 2,533 | 2,256 | 2,386 | 5.8% |
| Justice Court Charges | 10,316 | 9,898 | 9,631 | -2.7% |
| Total DUI Cases | 12, 849 | 12,154 | 12,017 | -1.1% |

Source: Utah Administrative Office of the Courts

Justice Court Electronic Reporting Capability

In order to prevent repeat offenders from slipping through the system, state law required all Justice Courts to develop the capability to electronically report DUI data to the state by February 2004. The following table shows the growth of Justice Court compliance from FY 2003 to FY 2006. In FY 2003, only 30 Justice Courts had met this requirement. As of October 1, 2006, 129 of Utah's 130 Justice Courts were in compliance with the electronic reporting requirements. The Court not reporting electronically must still submit its reports in a hard copy format.

| Justice Court DUI Electronic Data Reporting Capability | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|---|----------------|----------------|----------------|----------------|
| Reporting Electronically | 30 | 80 | 128 | 129 |
| In the Testing Phase | NA | 20 | 1 | 0 |
| Not Reporting Electronically | NA | 37 | 4 | 1 |

Source: Utah Department of Public Safety, Bureau of Criminal Identification

Justice Court DUI Charges and Outcomes

During FY 2006, Utah's Justice Courts handled 9,631 DUI cases, 267 fewer than in FY 2005. The following table details the DUI cases filed in Justice Courts and their outcomes. This table does not accurately represent the DUI conviction rate for the Justice Courts, as it includes cases filed in FY 2005 that were not resolved until FY 2006. The table also shows that 1,258 cases were still pending resolution at the end of the fiscal year.

| Justice Court DUI Charges and Outcomes | FY 2005 | | FY 2006 | | % Change FY 05 – FY 06 |
|--|---------|---------|---------|---------|---------------------------|
| | Number | Percent | Number | Percent | |
| Total DUI Charges Filed | 9,898 | 100.0% | 9,631 | 100.0% | -2.7% |
| Guilty | 5,937 | 60.0% | 5,908 | 61.0% | -0.5% |
| Dismissed or Not Guilty | 2,680 | 27.0% | 2,465 | 26.0% | -8.0% |
| Cases Pending | 1,281 | 13.0% | 1,258 | 13.0% | -1.8% |

Source: Utah Administrative Office of the Courts

District Court DUI Case Outcomes

During FY 2006, Utah's eight District Courts handled 2,386 DUI cases. Of the cases processed through the District Court, almost 76 percent resulted in a guilty plea or verdict. The defendant was found not guilty in only one case. In another 18 percent of the cases, the case was either dismissed or declined for prosecution. The following table identifies how cases were handled by Judicial District. It should be noted that this table is not an accurate depiction of the District Courts' DUI conviction rates, as it only examined cases that were disposed of during FY 2006. Pending cases were not included in the data analysis.

| FY 2006 District Court DUI Case Filings and Outcomes | | | | | | | | | | |
|--|-------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--------------|---------------|
| DUI Case Outcomes | Judicial District | | | | | | | | Total | Percent |
| | 1 st | 2 nd | 3 rd | 4 th | 5 th | 6 th | 7 th | 8 th | | |
| Bail Forfeiture | | 1 | | | | | | | 1 | 0.0% |
| Deceased | | | 2 | 3 | | | | | 5 | 0.2% |
| Declined | | 1 | | | | | | | 1 | 0.0% |
| Dismissed | 72 | 101 | 110 | 77 | 31 | 20 | 5 | 16 | 432 | 18.1% |
| Diversion | | 1 | | | | | | | 1 | 0.0% |
| Guilty | 96 | 601 | 344 | 414 | 152 | 44 | 63 | 90 | 1,804 | 75.6% |
| Guilty/Mentally Ill | | | | | | | | | 0 | 0.0% |
| No Contest | | 15 | | 27 | 1 | 1 | 3 | | 47 | 2.0% |
| Not Guilty | | 1 | | | | | | | 1 | 0.0% |
| Plea in Abeyance | 2 | 12 | 5 | 18 | 3 | | | 6 | 46 | 2.0% |
| Remanded | | 1 | 21 | 1 | | 1 | 1 | | 25 | 1.1% |
| Transferred | 2 | 7 | 7 | 3 | 1 | | 1 | 2 | 23 | 1.0% |
| TOTAL | 172 | 741 | 489 | 543 | 188 | 66 | 73 | 114 | 2,386 | 100.0% |

Source: Utah Administrative Office of the Courts

Repeat Offenders

The District Courts track how repeat DUI offenders are handled as well. In the following table, which includes data for Fiscal Year 2004 through Fiscal Year 2006, the first column shows if the offender was charged as a first-time offender or a repeat offender. The second column indicates how many of those in the first column actually met that criterion. The last column shows how the offender was sentenced.

In FY 2006 for example, 22 percent of DUI offenders were charged with a third offense, while 17 percent were actually third-time offenders and 16 percent were sentenced as third-time offenders. Discrepancies between charges and sentencing are not unusual. An offender's sentence is dependent upon the conviction, which may or may not be the same as the offense charged due to plea bargains or court procedural issues.

| District Court DUI Repeat Offender Data for Fiscal Years 2004-2006³ | | | | | | | | | |
|---|-------------------------------|--------------|--------------|-----------------------------|--------------|--------------|---------------------------------|--------------|--------------|
| Offense | Offense Was Charged As | | | Offense Was Actually | | | Offense Was Sentenced As | | |
| | FY 04 | FY 05 | FY 06 | FY 04 | FY 05 | FY 06 | FY 04 | FY 05 | FY 06 |
| 1 st Offense | 59.2% | 61.1% | 59.4% | 53.7% | 56.1% | 53.2% | 61.3% | 64.1% | 58.9% |
| 2 nd Offense | 16.4% | 15.0% | 14.7% | 22.2% | 17.9% | 22.3% | 19.5% | 17.9% | 20.9% |
| 3 rd Offense | 20.0% | 20.3% | 21.7% | 16.6% | 19.5% | 17.3% | 14.7% | 15.4% | 16.5% |
| 4 th Offense | 2.5% | 1.9% | 2.0% | 3.7% | 3.1% | 2.8% | 2.5% | 1.3% | 1.6% |
| 5 th or More Offense | 1.9% | 1.7% | 2.2% | 3.8% | 3.4% | 4.4% | 2.0% | 1.3% | 2.1% |
| TOTAL | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Source: Utah Administrative Office of the Courts | | | | | | | | | |

Court Sanctions

The District Courts also track other DUI-related case information such as blood alcohol content (BAC) reported; screening, assessment and treatment ordered; and ignition interlock ordered.

The table on the following page shows that in 857 cases the blood alcohol content was known. The table further shows that judges ordered offenders to participate in an educational series in 44 percent of cases, substance abuse treatment in 57 percent of cases, and that ignition interlock devices were ordered in 432 cases. DUI offenders were notified 100 percent of the time that they may be subject to enhancements.

³ The cases in the table represent only those for which the number of the offense was known. In addition, the following cases were not included: bail forfeiture, deceased, declined, dismissed, not guilty, remanded, and transferred.

| District Court DUI Data | FY 2004 | FY 2005 | FY 2006 |
|--|----------------|----------------|----------------|
| Blood Alcohol Content Known | 774 | 797 | 857 |
| Substance Abuse Screening and Assessment Ordered | 60.0% | 61.0% | 59.0% |
| Substance Abuse Treatment Ordered | 55.0% | 57.0% | 57.0% |
| Educational Series Ordered | 51.0% | 45.0% | 44.0% |
| Ignition Interlock Ordered | 437 | 359 | 432 |
| Supervised (Non-Court) Probation | 797 | 670 | 335 |
| Electronic Monitoring | 148 | 162 | 141 |
| Enhancement Notification | 100.0% | 100.0% | 100.0% |
| Source: Utah Administrative Office of the Courts | | | |

The Driver License Division tracks other DUI sanctions. The following table lists the average sanctions applied against DUI offenders. Not all offenders are ordered to serve a jail sentence or perform community service hours; however, all convicted DUI offenders are assessed a fine and a surcharge. For a first offense, the minimum fine is \$700; for a second offense within 10 years, the minimum fine is \$800; and for a third or subsequent offense, the minimum fine is \$1,500.

| Average Jail Sentence, Community Service Hours and Fines | FY 2004 | FY 2005 | FY 2006 |
|---|----------------|----------------|----------------|
| Average Jail Sentence | 133.4 days | 147.5 days | 147.9 days |
| Average Time Suspended | 128.4 days | 146.5 days | 147.3 days |
| Average Time Served | 21.6 days | 16.9 days | 13.4 days |
| Average Community Service Hours | 72.8 hours | 80.2 hours | 61.9 hours |
| Average Fine for Other Alcohol/Drug Related Convictions | \$1,268.09 | \$1,310.85 | \$1,378.53 |
| Average Fine for DUI Convictions | \$1,460.46 | \$1,546.35 | \$1,498.22 |
| Source: Utah Department of Public Safety, Driver License Division | | | |

Driver License
Control

4

Driver License Control

The Department of Public Safety's Driver License Division is required by statute to suspend or revoke the license of a person that has been convicted or sanctioned for one of the following:

- Driving under the influence
- Driving with any measurable controlled substance or metabolite in the body
- Refusal to submit to a chemical test
- Automobile homicide
- "No-alcohol" conditional license
- Alcohol restricted driver violation

Alcohol Hearing Statistics

When a driver is arrested for DUI, the license is taken and a 30-day temporary license is issued. Drivers may request a license hearing within 10 days, and the Driver License Division must schedule the hearing within the 30-day period of the temporary license.

As shown in the table below, there were 4,044 alcohol hearings held in FY 2006. The Division is unable to take any action against a driver if the arresting officer does not appear at the hearing. To improve appearance rates, the Division offers a telephonic option, whereby officers or offenders can phone in for the hearing. In 1,331 cases, one of the parties called in for the hearing.

| FY 2006 Alcohol Hearing Statistics | | | | | | |
|---|---------------------|------------|-----------------------|-----------------|-----------------|------------------|
| ACD Code | Total # of Hearings | No Officer | No Officer Telephonic | Other No Action | Total No Action | Total Telephonic |
| Per Se | 3,297 | 684 | 46 | 570 | 1,290 | 1,063 |
| Not a Drop | 194 | 24 | 2 | 27 | 53 | 73 |
| Refusal | 553 | 80 | 1 | 95 | 176 | 195 |
| TOTAL | 4,044 | 788 | 49 | 692 | 1,519 | 1,331 |
| Source: Utah Department of Public Safety, Driver License Division | | | | | | |

Assessment,
Education &
Treatment

5

Screening, Assessment, Education and Treatment

Screening and Assessment

As part of any sentence for a DUI offense, Utah law requires offenders to participate in a screening and, if indicated by the screening, an assessment. A screening involves gathering information that is used to determine if an individual has a problem with alcohol/other drug abuse, and if so, whether an in-depth clinical assessment is appropriate. An assessment is a collection of detailed information concerning the individual's alcohol/other drug abuse, emotional and physical health, social roles, and other relevant areas of the individual's life. The assessment is used to determine the need for substance abuse treatment.⁴

Education

For a first offense and for a second offense within 10 years, the sentence must include participation in an educational series if the court does not order treatment. The purpose of DUI education is to “address any problems or risk factors that appear to be related to use of alcohol and other drugs and attempt to help the individual recognize the harmful consequences of inappropriate use, with special emphasis placed on the dangers of drinking and driving.”⁵ Utah DUI offenders sentenced to an educational series attend the PRIME for Life program developed by the Prevention Research Institute (PRI). The 16-hour curriculum presents research-based information about the risks associated with

⁴ Center for Substance Abuse Treatment, *Screening and Assessment for Alcohol and Other Drug Abuse Among Adults in the Criminal Justice System*, Treatment Improvement Protocol (TIP) Series, #7.

⁵ Utah Sentencing Commission, *DUI Best Sentencing Practices Guidebook*, 2003.

alcohol and other drug use that helps participants identify lifestyle choices to reduce their personal risks⁶.

PRI conducts a study of PRIME for Life participants to measure the impact on changing beliefs about alcohol use, understanding the risks associated with alcohol use, and desire to change personal drinking behavior. In previous years this study was published annually; however, because the findings have been virtually identical from year to year, PRI now publishes the study semi-annually. The next study, which will provide Utah data for 2005 and 2006, was not available in time for inclusion in this report.

Treatment

For a first and second DUI offense, the court may order treatment; for a third or subsequent offense within 10 years, the court must order substance abuse treatment. "Treatment involves the application of planned procedures to identify and change patterns of behavior that are maladaptive, destructive, and/or injurious to health; or to restore appropriate levels of physical, psychological and/or social functioning. DUI offenders assessed as meeting the diagnostic criteria for a substance use disorder should participate in a treatment program in addition to, or in lieu of, the educational course."⁷ Treatment should address both alcohol and other drug problems. The level of treatment needed (e.g., day treatment, outpatient, intensive outpatient, residential) is determined by the assessment on the basis of the severity of the substance abuse disorder.

⁶ Prevention Research Institute, *PRIME for Life Utah 2004*.

⁷ Utah Sentencing Commission, *DUI Best Sentencing Practices Guidebook*, 2003.

A Strategy for Reducing DUI

6

A Strategy for Reducing DUI: Prevent Underage Drinking

Preventing underage drinking in Utah may be one of the most powerful keys to reducing the incidence of driving under the influence. Consider the facts:

Alcohol is the drug of choice among Utah youth.

- The average age of first use of alcohol (a sip or more) in Utah is 12.9; the average age of first regular alcohol use is 14.5.

| Percent of Utah Students Who Reported Alcohol Use and Abuse in 2005⁸ | | | | |
|--|----------------|----------------|-----------------|-----------------|
| Student Enrollment by Grade Level – October 1, 2005 | Grade 6 | Grade 8 | Grade 10 | Grade 12 |
| | 35,739 | 36,779 | 36,544 | 34,614 |
| Lifetime Alcohol Use | 12.3% | 24.5% | 35.3% | 40.0% |
| Past 30 Days Alcohol Use | 2.1% | 9.3% | 15.7% | 20.5% |
| Binge Drinking | 1.7% | 5.7% | 9.7% | 13.3% |
| Needs Alcohol Treatment | 0.3% | 2.2% | 6.0% | 8.6% |

- According to the table above, an estimated 4,396 6th graders, 9,011 8th graders, 12,900 10th graders, and 13,846 12th graders have tried alcohol in their lifetime.
- An estimated 750 6th graders, 3,420 8th graders, 5,737 10th graders, and 7,096 12th graders regularly use alcohol (past 30 days).

⁸ Bach Harrison, L.L.C. *Utah Prevention Needs Assessment Survey State Report 2005*. Sponsored by the Utah State Office of Education, Utah Department of Health, and Utah Department of Human Services Division of Substance Abuse and Mental Health.

- An estimated 608 6th graders, 2,096 8th graders, 3,545 10th graders, and 4,604 12th graders have engaged in binge drinking (5 or more drinks in a row in the last two weeks).
- An estimated 107 6th graders, 809 8th graders, 2,193 8th graders, and 2,977 12th graders are in need of alcohol treatment.

Age at first use of alcohol is a powerful predictor of lifetime alcohol abuse and dependence.

- In 2003, almost 74 percent of adults reported they started using alcohol before the legal drinking age of 21.⁹
- People who start drinking before the age of 15 are five times more likely to have past year alcohol dependence or abuse when compared to people who first used alcohol at age 21 or older.⁹
- Lifetime alcohol dependence decreases steeply as age of onset of drinking increases.¹⁰

Delaying the onset of alcohol use may result in lower rates of driving after drinking and fewer alcohol-related crashes.

- Adults who started drinking by age 14 were three times more likely to report driving after drinking too much than those who began drinking after age 21.¹¹
- Crashes were four times more likely for those who began drinking by age 14 when compared to those who began drinking after age 21.¹¹
- Research continues to show that young drivers between 15 and 20 years old are more involved in alcohol-related crashes than any other comparable age group. Alcohol crash involvement rates, share of the alcohol crash problem, and alcohol crash risk all reach their peaks with young drivers, with the peaks for fatal crashes occurring at age 21.¹²

⁹ Substance Abuse and Mental Health Services Administration. *The NSDUH Report: Alcohol Dependence or Abuse and Age at First Use*. October 22, 2004.

¹⁰ Grant, B.F., and Dawson, D.A. *Age at Onset of Drug Use and Its Association With DSM-IV Drug Abuse and Dependence*. Results from the National Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse* 10:163-173, 1998.

¹¹ Hingson, R., Heeren, T., Levenson, S., Jamanka, A., and Voas, R. *Age of Drinking Onset, Driving After Drinking, and Involvement in Alcohol-Related Motor Vehicle Crashes*. DOT HS 809. Springfield, VA: National Technical Information Service, 2001.

¹² National Highway Traffic Safety Administration, 2001.

Recommended
Action

7

Recommended Action

DUI Law Amendments

Enact legislation to:

- Clarify the application of the ten year look back period for felony driving under the influence violations;
- Require the courts to order an ignition interlock system as a condition of probation for alcohol restricted driver violations or describe why the order would not be appropriate;
- Expand the definition of alcohol restricted driver to include any person who is convicted of a violation of the interlock restricted driver statute;
- Require a person whose driver license has been denied, cancelled, suspended or revoked to have an administrative hearing before seeking judicial review of the Driver License Division's order;
- Increase the fee for a license reinstatement application for an alcohol or drug-related offense;
- Increase the administrative fee for license reinstatement after an alcohol or drug-related offense; and
- Require the Driver License Division to immediately deny, suspend, disqualify, or revoke a person's driver license upon receiving record of a person's conviction for operating a vehicle without an ignition interlock system if the person is an interlock restricted driver.

Utah's DUI laws are among the best in the nation. As the USAAV DUI Subcommittee continued its work during the past year, it nonetheless identified several areas that require clarification and strengthening. One of these areas is the 10 year look-back

period for determining charges in felony DUIs, the measurement of which remains problematic. The statute should be amended to clarify this provision.

The Subcommittee proposes if a person is an alcohol restricted driver and commits a violation, that person should be required to have an ignition interlock system. The statute should be amended accordingly.

The Driver License Division handles interlock restricted driver (IRD) and alcohol restricted driver (ARD) cases manually because of the difficulty in creating an automated process that would allow for all of the possible scenarios. Any change to the statute, such as that proposed above, will require an additional FTE for the Division.

The Driver License Division also reports that persons charged with DUI who have had their driver licenses revoked are filing appeals without first exercising their due process rights to have an administrative hearing. Such persons should be required to have an administrative hearing before appealing the revocation.

Increases in the fee for license reinstatement applications and the administrative fee for license reinstatement will provide funding for additional FTEs needed by the Driver License Division to implement the changes above, including: an FTE to process certified records for court purposes, due to the change in the look-back period for enhancement of criminal penalties; an FTE to handle the increased numbers of IRD and ARD cases; and an FTE to conduct additional driver license hearings.

Finally, the provision requiring the Driver License Division to immediately deny, suspend, disqualify or revoke a person's driver license upon the person's conviction for operating a vehicle without an ignition interlock system when the person is an interlock restricted driver should be placed in statute. This provision was inadvertently omitted when S.B. 18 was passed during the 2006 General Session.

Underage Drinking Media and Education Campaign

Appropriate \$1.6 million for Fiscal Year 2007-2008 to the Department of Alcoholic Beverage Control to enable the continuation of Utah's *ParentsEmpowered.org* Underage Drinking Prevention Media and Education Campaign.

Utah is currently implementing a wide variety of effective youth-focused substance abuse prevention programs targeted at the general population and specific high risk groups. But education alone is not enough to deter teens from drinking as they enter the difficult social transitions to adulthood, because there are many pressures and opportunities to drink. Parents/guardians who are actively involved can have a powerful influence in their child's decision to remain alcohol free. Teen perceptions of parental disapproval are great deterrents. According to Charles Curie, former Administrator of the Substance Abuse and Mental Health Services Administration in the U. S. Department of Health and Human Services: **"What parents may not realize is that children say parental disapproval of underage drinking is the key reason they have chosen not to drink."**

Research indicates that children are less likely to drink when their parents/guardians are involved in their lives and when they and their parents/guardians report feeling close to each other. Family conflict and lack of bonding are associated with increased risk of drinking. Mixed messages and unclear rules and expectations also leave youth more vulnerable to underage drinking. In addition to being close to children and involved in their lives, parents/guardians can influence their children by doing the following: learning and teaching their children about the risks of underage drinking, emphasizing that drinking alcohol is not a “rite of passage”, but a dangerous drug for the developing teen brain; setting clear rules and expectations about alcohol; monitoring their children’s activities; helping their children to choose friends who support their family rules; and ensuring that alcohol is not available to their children.

This is exactly what Utah’s **ParentsEmpowered.org** Underage Drinking Prevention Media and Education Campaign is doing. With legislative funding for FY 2006-2007, the campaign launched in late August of this year and is reaching out to Utah parents through print, radio, and television media to teach them about the harms of underage drinking and to provide them with the skills to help their children choose to stay alcohol free. In order for the media campaign to accomplish its objective of reducing underage drinking in Utah, it is essential that it be funded beyond the initial year. One-shot prevention efforts are not successful, but must be maintained over a sufficient period of time to make a difference.

Another critical component of Utah’s strategy to prevent and reduce underage drinking is controlling youth access to alcohol. Research has shown that availability of alcohol is a risk factor for alcohol use and abuse. Therefore, in addition to funding the Underage Drinking Media and Education Campaign, S.B. 58 provided ongoing funding for local law enforcement agencies to conduct compliance checks of grocery and convenience stores throughout the state to ensure they are not selling alcohol to underage youth. The funding for these compliance checks is appropriated annually to the Utah Department of Public Safety Highway Safety Office, and will ensure a comprehensive effort to keep alcohol out of the hands of Utah’s youth.



UTAH DUI SENTENCING MATRIX

(Current as of October 2006)

| | FIRST OFFENSE | SECOND OFFENSE WITHIN 10 YEARS | THIRD OR SUBSEQUENT OFFENSE WITHIN 10 YEARS |
|--|---|--|---|
| CLASSIFICATION (§41-6a-503) | CLASS B MISDEMEANOR BECOMES A CLASS A: <ul style="list-style-type: none"> if bodily injury inflicted if passenger is under 16 if passenger is under 18 and driver is 21 or older Third degree felony: <ul style="list-style-type: none"> if serious bodily injury | CLASS B MISDEMEANOR BECOMES A CLASS A: <ul style="list-style-type: none"> if bodily injury inflicted if passenger under 16 if passenger is under 18 and driver is 21 or older Third degree felony: <ul style="list-style-type: none"> if any prior felony DUI conviction or automobile homicide conviction if serious bodily injury | THIRD DEGREE FELONY |
| SENTENCING Jail – SHALL order: (§41-6a-505) | 48 consecutive hours OR 48 hours compensatory service OR electronic home confinement ¹ | 240 consecutive hours OR 240 hours compensatory service OR electronic home confinement ¹ | 0-5 year prison term OR 1,500 hours jail (62.5 days) May also require electronic home confinement ¹ |
| Fine – SHALL order: (§41-6a-505) | \$700 minimum plus surcharge | \$800 minimum plus surcharge | \$1,500 minimum, unless 0-5 prison term is imposed |
| Other – SHALL order: (§41-6a-505) | <ul style="list-style-type: none"> Screening Assessment (if found appropriate by screening) Educational Series, unless treatment is ordered MAY order treatment | <ul style="list-style-type: none"> Screening Assessment (if found appropriate by screening) Educational Series, unless treatment is ordered MAY order treatment | <ul style="list-style-type: none"> Screening Assessment Intensive treatment or inpatient treatment and aftercare for not less than 240 hours |
| Probation: ² (§41-6a-507) | MAY order supervised probation | SHALL order supervised probation | SHALL order supervised probation if 0-5 prison term is not imposed |
| Ignition Interlock: ³ (§41-6a-518) | <ul style="list-style-type: none"> MAY order interlock SHALL order interlock if under 21 | <ul style="list-style-type: none"> MAY order interlock SHALL order interlock if under 21 | <ul style="list-style-type: none"> MAY order interlock SHALL order interlock if under 21 |
| High BAC: (.16 or higher) (§41-6a-505) | <ul style="list-style-type: none"> SHALL order supervised probation² SHALL order treatment and interlock³ and/or home confinement¹ OR describe on the record why such order(s) not appropriate | <ul style="list-style-type: none"> SHALL order supervised probation² SHALL order treatment and interlock³ and/or home confinement¹ OR describe on the record why such order(s) not appropriate | <ul style="list-style-type: none"> SHALL order supervised probation² if 0-5 prison term is not imposed SHALL order treatment and interlock³ and/or home confinement¹ OR describe on the record why such order(s) not appropriate |
| License Suspension: (§41-6a-509) | Court MAY order additional 90 days, 180 days, 1 year or 2 years | Court MAY order additional 90 days, 180 days, 1 year or 2 years | Court MAY order additional 90 days, 180 days, 1 year or 2 years |

¹See §41-6a-506 for electronic home confinement provisions.

²Supervised probation is also required for all violations of §41-6a-517 (driving with any measurable controlled substance in the body).

³Adoption of the ignition interlock restricted driver (IRD) provision (§41-6a-518.2) does not change the obligation of judges to impose interlock as a condition of probation.



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